



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

4411 Early Road, P.O. Box 3000, Harrisonburg, Virginia 22801

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[www.deq.virginia.gov](http://www.deq.virginia.gov)

L. Preston Bryant, Jr.  
Secretary of Natural Resources

David K. Paylor  
Director

Amy Thatcher Owens  
Regional Director

## STATE AIR POLLUTION CONTROL BOARD

### ORDER BY CONSENT ISSUED TO

**Pactiv Corporation**

**Registration Number: 81095**

#### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1187, -1184, -1307(D) and 1309, between the State Air Pollution Control Board and Pactiv Corporation, for the purpose of providing interim emissions limits during the modification of the Insulation Board (IB) Line (E-6) at the Facility.

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.
6. "Pactiv" means Pactiv Corporation, certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
7. "Facility" means Pactiv's extruded polystyrene product manufacturing facility located at 172 Pactiv Way, Winchester, Frederick County, Virginia 22657.
8. "VRO" means the Valley Regional Office of DEQ, located at 4411 Early Road, P.O. Box 3000, Harrisonburg, Virginia 22603.

9. "Permit" means Pactiv's minor New Source Review Permit to modify and operate an extruded polystyrene foam production facility, June 2, 2009.
10. "Regional Director" means the party serving in such capacity for the Valley Regional Office of the DEQ.
11. "Regulations" mean the Regulations for the Control and Abatement of Air Pollution, located in the Virginia Administrative Code ("VAC"), 9 VAC 5-10-10 *et seq.*
12. "Virginia Air Pollution Control Law" means the laws located in the Virginia Code ("Va. Code") (1950), as amended, Va. Code § 10.1-1300 *et seq.*
13. "VOC" means Volatile Organic Compound, a precursor to the production of surface level ozone, a regulated criteria air pollutant.
14. "PSD" means Prevention of Significant Deterioration and refers to areas of the country that are considered to be in attainment with acceptable levels of criteria air pollutants.
15. "HAP" means Hazardous Air Pollutant or any air pollutant listed in Section 112(b) of the Clean Air Act.
16. "HCFC-142b" is a hydrochlorofluorocarbon, commonly blended with other substances to be used as a refrigerant or for foam blowing or as a propellant in aerosol cans. Its production and importation for use in equipment manufactured after January 1, 2010 is prohibited by the Montreal Protocol, which was ratified by the United States in 1988.

#### **SECTION C: Findings of Facts and Conclusions of Law**

1. Pactiv is the owner and operator of the Facility. This Facility was previously subject to the following three minor NSR permits: (i) minor NSR permit dated March 25, 2003 to operate and modify an extruded polystyrene foam production facility (aka polystyrene permit); (ii) minor NSR permit dated June 30, 2000 to install and operate three resin storage silos and three fluff storage silos (aka resin and fluff storage permit), and (iii) minor NSR permit dated October 20, 2004 as amended August 14, 2007 to install and operate one storage silo (aka silo permit). These three minor NSR permits have been superseded by the Permit, with all applicable requirements from the three minor NSR permits included in the Permit.
2. Pactiv had submitted the minor New Source Review permit application for the Permit on October 2, 2008 seeking a modification to their Insulation Board (IB) Line (E-6). This line produces insulation board, uses a combination of VOC and non-VOC blowing agents, and was previously covered by the polystyrene permit. The proposed modification detailed replacing the existing foam extruder with a rated capacity of 3000 lb/hr with a new foam extruder rated at 3500 lb/hr. The change in blowing agent was to result in the decrease of VOC emissions from the IB Line (E-6), and was prompted in part by Pactiv's commitment to meet a January 1, 2010 international mandate to cease

using the ozone depleting substance HCFC-142b. Pactiv's application also reflected its election to voluntarily stop using ethyl chloride, a Hazardous Air Pollutant (HAP), as another blowing agent constituent. The application detailed a proposal to use four blowing agents in IB Line E-6: two containing no VOCs, one containing up to 3% methanol (a VOC and HAP), and another containing 100% VOC.

4. The polystyrene permit had a VOC emission limit of 245 tons/yr. The Permit has separate emission limits for each of the following lines: Insulation Board (IB) Line (E-6), Tableware/Attic Vent (DTW-AV) Lines (E-2 & E-3) and the Underlayment Line (E-1).
5. Based on staff evaluation of the permit application, the modification of the IB Line (E-6) is reducing Facility-wide volatile organic compounds (VOC) emissions by 177.6 tons/yr.
6. The modification of the IB Line (E-6) is not subject to NSPS, NESHAPS, MACT standard, PSD permitting requirements or BACT applicability. The modification is subject to the permitting requirements under 9 VAC 5 Chapter 80, Article 6 (Minor New Source Review).
7. Pactiv proactively pursued issuance of the Permit well in advance of the international HCFC-142b ban. Pactiv is seeking to continue using HFC-142b and ethyl chloride as blowing agents on an interim and as-needed basis until December 31, 2009, while it fine-tunes the operation of the IB Line (E-6) with the new blowing agents.
8. Pactiv has informed VRO staff that it will comply with all the conditions of the Permit by January 1, 2010.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code §§10.1-1307 D, 10.1-1309, 10.1-1184, and 10.1-1186.2 orders Pactiv, and Pactiv agrees, to perform the actions described in Appendix A of this Order.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Pactiv, for good cause shown by Pactiv, or on its own motion after notice to Pactiv and its opportunity to be heard.
2. This Order provides for interim emissions limits during the modification of the Insulation Board (IB) Line (E-6) at the Facility. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility as may be authorized by law; or (3) taking subsequent action to enforce this Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

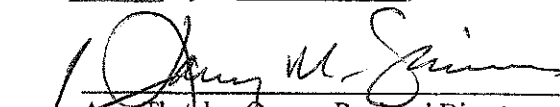
3. For purposes of this Order only, Pactiv admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Pactiv consents to venue in the Circuit Court of the City of Winchester for any civil action taken to enforce the terms of this Order.
5. Pactiv declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right of Pactiv to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Pactiv to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Pactiv shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Pactiv shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Pactiv shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. The reasons for the delay or noncompliance;
  - b. The projected duration of any such delay or noncompliance;
  - c. The measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. The timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 72 hours of learning of any condition above, which Pactiv intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and Pactiv. Notwithstanding the foregoing, Pactiv agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Pactiv, but in no event shall this date be later than December 31, 2009. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Pactiv, from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By appropriate signature below, Pactiv voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 2<sup>nd</sup> day of June, 2009.

  
Amy Thatcher Owens, Regional Director  
Valley Regional Office  
Department of Environmental Quality

Pactiv voluntarily agrees to the issuance of this Order.

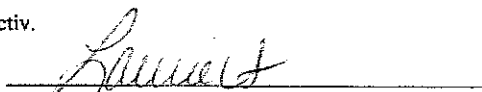
By: William H. Wolfe  
William H. Wolfe, Plant Manager  
Date: June 2, 2009

Commonwealth of Virginia

City/County of Frederick

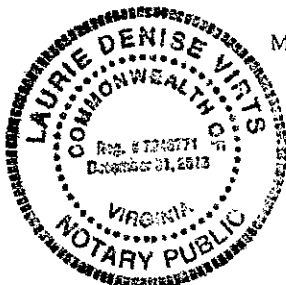
The foregoing document was signed and acknowledged before me this 02 day of June, 2009, by Laurie Vitt & William Wolfe who is  
(name)

Plant Manager of Pactiv, on behalf of Pactiv.  
(title)

  
Notary Public

My commission expires:

December 21, 2013



## APPENDIX A

Pactiv agrees to comply with the following interim limits and reporting requirements for the duration of the term of this Order, with respect to the modification to the Insulation Board Line (E-6). These interim limits and reporting requirements shall supersede the language in Conditions 12, 13, and 16 of the Permit for the duration of this Order. All other Permit conditions and requirements shall continue to apply unless otherwise stated herein.

1. Total emissions of volatile organic compounds (VOC) from the operation of the facility shall not exceed 245 tons per year calculated as the sum of each consecutive 12-month period. Included in this total are process and reclaim emissions from Underlayment (UL) Line E-1, Tableware/Attic Vent (DTW-AV) and Underlayment (UL) Lines E-2 and E-3 and Insulation Board (IB) Line E-6.
2. Emissions of ethyl chloride from the operation of the facility shall not exceed 150 pounds per hour.
3. Pactiv shall maintain records of all emissions data and operating parameters necessary to demonstrate compliance with the Permit.
4. In addition to the recordkeeping requirements contained in the Permit, Pactiv shall keep the following records:
  - a. Monthly and annual VOC emissions in tons, necessary to demonstrate compliance with Condition 1 of Appendix A of this Order. The annual emissions shall be calculated monthly as the sum of each consecutive 12-month period.
  - b. Hourly emissions of ethyl chloride from the facility. Hourly emissions shall be calculated as a 30-day average.
5. Records shall be available on site for inspection by the DEQ for the duration of this Order.
6. The notification required by Condition 45.c. of the Permit shall be submitted to the DEQ no later than December 31, 2009.